

PT 97-66

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

UNITED PENTECOSTAL CHURCH)	
OF NEOGA)	
Applicant)	
)	Docket # 96-18-2
v.)	
)	Parcel Index # 06-07-414-
001-0040		
THE DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS)	

RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held on October 23, 1997, at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, to determine whether or not Cumberland County Parcel Index No. 06-07-414-001-0040 qualified for exemption from real estate taxation for the 1996 assessment year.

Rev. C. Dale Sims, pastor of the United Pentecostal Church of Neoga (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant is a religious organization; secondly whether the applicant owned this parcel during the 1996 assessment year; and lastly, whether the applicant used this parcel as a parsonage during the 1996 assessment

year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant is a religious organization which owned this parcel and the residence thereon during the 1996 assessment year. It is further determined that the applicant used this parcel and the residence thereon as a parsonage during the 1996 assessment year.

Findings of Fact:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that the parcel here in issue did not qualify for exemption for the 1996 assessment year, was established by the admission in evidence of Department's Ex. Nos. 1 through 6A.

2. Rev. Sims stated he recalled that at the pre-trial conference held on October 1, 1997, the Administrative Law Judge had advised him that it would be appropriate for him to be represented by legal counsel at the hearing. He further stated that he wished to proceed without counsel. (Tr. p. 7)

3. The applicant was incorporated on April 7, 1989, pursuant to the General Not For Profit Corporation Act Of Illinois for the following purpose: "Spread the gospel of Jesus Christ." (Appl. Ex. No. 2)

4. During 1996, the applicant had approximately 50 or 60 members and an average attendance of about 50. (Tr. p. 10)

5. During 1996, the applicant held worship services on Sunday mornings at 9:45 A.M. and Sunday evenings at 6:00 P.M. and also on Wednesday evenings at 7:00 P.M. (Tr. pp. 10 & 11)

6. On December 14, 1994, a special called business meeting of the applicant was held to see if the applicant wished to investigate the purchase of the parcel here in issue to be used as a parsonage. The vote was 12 yes, and 4 no. (Appl. Ex. No. 7)

7. On February 23, 1995, a special called business meeting of the applicant was held to authorize the purchase of this parcel and the house thereon. After an opportunity for the members to ask questions, the purchase was authorized by a vote of 13 yes and 6 no. (Appl. Ex. No. 8)

8. The applicant acquired this parcel and the residence thereon by a warranty deed dated March 7, 1995. (Dept. Ex. No. 2B)

9. Pastor Sims, his wife and two daughters moved into the residence on this parcel later in March of 1995 and have lived in that house since that time. (Tr. p. 11)

10. This parcel is located two blocks from the church. (Tr. p. 13)

11. Pastor Sims is an ordained minister of the United Pentecostal Church. (Appl. Ex. Nos. 4 & 5)

12. Pastor Sims does not pay rent to the applicant to live in the house. (Tr. p. 12)

13. Pastor Sims studies and prepares his sermons at the kitchen table in the house on this parcel. He also counsels parishioners in this house, usually in the living room or the dining room. (Tr. p. 12)

14. During 1996, the ladies auxiliary of the applicant held a supper and meeting at the house. The youth group also met at this house frequently for fellowship, during 1996. (Tr. p. 13)

15. The Parsonage Questionnaire submitted by Rev. Sims, included the question: "Is the minister required, as a condition of employment or association, to reside in the parsonage?" Rev. Sims answered "no" to that question. (Dept. Ex. No. 2D) When asked about this answer at the hearing, Pastor Sims stated that he had been living in Pana, Illinois, and for about a year and a half, as pastor of the applicant, had been commuting 40 miles, since the applicant did not have a parsonage. The church had acquired this parcel and the residence thereon for the sole purpose of providing its pastor with a parsonage. (Tr. p. 14)

16. On September 17, 1997, the board of applicant passed a resolution that the pastor live in the church owned parsonage. (Appl. Ex. No. 1)

17. Rev. Sims stated that although the resolution was passed in 1997, it sets forth the policy of the applicant in 1996, and he had incorrectly answered the question on the Parsonage Questionnaire. (Tr. pp. 14 & 15)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 ILCS 200/15-40 provides as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

In the case of McKenzie v. Johnson, 98 Ill.2d 87 (1988), the Illinois Supreme Court first set forth that the so-called parsonage exemption was constitutional. The Court went on to state that a parsonage qualifies for an exemption if it reasonably and

substantially facilitates the aims of religious worship or instruction or is used for such purposes. Based on the foregoing findings of fact, I conclude that the house on this parcel was used during all of 1996 to facilitate the aims of religious worship and instruction.

I also conclude that it was a condition of Rev. Sim's appointment that he live in the house on this parcel and that his answer to the question on the Parsonage Questionnaire was in error.

I therefore conclude that the applicant is a religious organization. I further conclude that the applicant owned this parcel and the improvements thereon during the entire 1996 assessment year. Finally, I conclude that this parcel and the residence thereon were used by the applicant as a parsonage for its pastor during the entire 1996 assessment year.

I consequently recommend that Cumberland County Parcel Index No. 06-07-414-001-0040 be exempt from real estate taxation for the 1996 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge

December 1, 1997